

Amendment - 1st Reading-white - Requested by: Daniel Zolnikov - (S) Business, Labor, and Economic Affairs

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

SB0178.001.002

1 SENATE BILL NO. 178

2 INTRODUCED BY D. ZOLNIKOV

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING CRYPTOCURRENCY LAWS;
5 PROHIBITING DISCRIMINATORY DIGITAL ASSET MINING UTILITY RATES; PROHIBITING LOCAL
6 GOVERNMENT POWERS RELATED TO DIGITAL ASSET MINING; PROHIBITING TAXATION ON THE USE
7 OF CRYPTOCURRENCY AS A PAYMENT METHOD; PROVIDING FOR DIGITAL ASSETS AS PERSONAL
8 PROPERTY; AMENDING SECTIONS 7-1-111, 15-1-101, AND 70-1-108, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE."

10
11 WHEREAS, digital asset mining provides positive economic value for individuals and companies
12 throughout the United States; and

13 WHEREAS, digital asset mining has often faced difficulty with regulations at the state and local level;
14 and

15 WHEREAS, the State of Montana wants to protect the right of individuals and businesses to mine
16 digital assets and create legal certainty for the digital asset mining industry; and

17 WHEREAS, digital asset mining has the potential to stabilize the grid and provide revenue for
18 infrastructure upgrades statewide.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 NEW SECTION. Section 1. Digital asset mining ratemaking. (1) The commission may not establish
23 a rate classification for digital asset mining, digital asset mining businesses, or home digital asset mining that
24 creates unduly discriminatory rates.

25 (2) For the purposes of this section, the following definitions apply:

26 (a) "Data center" means a use involving a building or premises in which the majority of the use is
27 occupied by computers, telecommunications, or related equipment, including supporting equipment, where

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1 information is processed, transferred, and stored.

2 (a) "Digital asset mining" means the use of electricity to power a computer for the purpose of
3 securing a blockchain network.

4 (b) "Digital asset mining business" means a group of computers working at a single site that
5 consume more than 1 megawatt of energy on an average annual basis for the purpose of generating digital
6 assets by securing a blockchain network.

7 (c) "Discriminatory rates" means electricity rates substantially different from other industrial similar
8 uses of electricity in similar geographic areas after accounting for the load profile and cost of service.

9 (d) "Home digital asset mining" means mining digital assets in areas zoned for residential use that
10 consume less than 1 megawatt of energy on an average annual basis for the purpose of generating digital
11 assets by securing a blockchain network.

12
13 NEW SECTION. Section 2. Digital assets taxation. A state or local government entity may not
14 charge an additional tax, withholding, assessment, or charge on the value of digital assets when used as a
15 method of payment.(1) Digital assets used as a method of payment may not be subject to any additional tax,
16 withholding, assessment, or charge by the state or a local government that is based solely on the use of the
17 digital asset as the method of payment.

18 (2) Nothing in this section prohibits the state or a local government from imposing or collecting a
19 tax, withholding, assessment, or charge otherwise authorized by Titles 15 or 16.

20
21 **Section 3.** Section 7-1-111, MCA, is amended to read:

22 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
23 exercising the following:

24 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
25 exercise of an independent self-government power;

26 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject
27 to those provisions, it may exercise any power of a public employer with regard to its employees;

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- 1 (3) any power that applies to or affects the public school system, except that a local unit may
2 impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and
3 shall exercise any power that it is required by law to exercise regarding the public school system;
- 4 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of
5 public convenience and necessity pursuant to Title 69, chapter 12;
- 6 (5) any power that establishes a rate or price otherwise determined by a state agency;
- 7 (6) any power that applies to or affects any determination of the department of environmental
8 quality with regard to any mining plan, permit, or contract;
- 9 (7) any power that applies to or affects any determination by the department of environmental
10 quality with regard to a certificate of compliance;
- 11 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
12 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6
13 months' imprisonment, or both, except as specifically authorized by statute;
- 14 (9) any power that applies to or affects the right to keep or bear arms;
- 15 (10) any power that applies to or affects a public employee's pension or retirement rights as
16 established by state law, except that a local government may establish additional pension or retirement
17 systems;
- 18 (11) any power that applies to or affects the standards of professional or occupational competence
19 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;
- 20 (12) except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to
21 or affects Title 75, chapter 7, part 1, or Title 87;
- 22 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is
23 intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title
24 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require
25 landlords to comply with ordinances or provisions that are applicable to all other businesses or residences
26 within the local government's jurisdiction.
- 27 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

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1 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
2 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government
3 may enter into a cooperative agreement with the department of agriculture concerning the use and application
4 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
5 government from adopting or implementing zoning regulations or fire codes governing the physical location or
6 siting of fertilizer manufacturing, storage, and sales facilities.

7 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production,
8 processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or
9 vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local
10 government from adopting or implementing zoning regulations or building codes governing the physical location
11 or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or
12 distribution facilities.

13 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
14 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
15 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
16 communications commission of the United States;

17 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio
18 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a
19 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,
20 "technician" or higher class, issued by the federal communications commission of the United States;

21 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
22 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
23 highway that is under the jurisdiction of an entity other than the local government unit;

24 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in
25 relation to a wildfire;

26 (21) any power as prohibited in 7-1-121(2) affecting, applying to, or regulating the use, disposition,
27 sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in 7-1-121(5);

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1 (22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in
2 accordance with 7-1-116;

3 (23) any power to require an employer, other than the local government unit itself, to provide an
4 employee or class of employees with a wage or employment benefit that is not required by state or federal law;

5 (24) any power to enact an ordinance prohibited in 7-5-103 or a resolution prohibited in 7-5-121 and
6 any power to bring a retributive action against a private business owner as prohibited in 7-5-103(2)(d)(iv) and 7-
7 5-121(2)(c)(iv); or

8 (25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in
9 16-11-313(1);

10 (26) any power to impose requirements on a digital asset mining business as defined in [section 1]
11 that are not also requirements for data centers in its area of jurisdiction;

12 (27) any power to prevent home digital asset mining as defined in [section 1] at a private residence,
13 except as related to existing noise or lighting ordinances; or

14 (28) any power to change the zoning of ~~an area that contains an active digital asset mining~~
15 ~~business as defined in [section 1] any parcel or lot that contains an active digital asset mining business or~~
16 ~~adjacent parcels owned or controlled by an active digital asset mining business as defined in [section 1] or~~
17 prevent a digital asset mining business from operating in an area zoned for industrial use."

18
19 **Section 4.** Section 15-1-101, MCA, is amended to read:
20 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this
21 section are used in connection with taxation, they are defined in the following manner:

22 (a) The term "agricultural" refers to:

23 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, biological
24 control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised,
25 grown, or produced for commercial purposes; and

26 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

27 (b) The term "assessed value" means the value of property as defined in 15-8-111.